

POLO PRIOR ART

It appears that clarification is necessary with respect to the Polo prior art. At the time that this application was filed, Applicant was aware of the existence of the Polo dispenser but had not yet determined that that object or photographs thereof constituted prior art.

At the time of filing, Applicants conservatively referred to the Polo as prior art and drafted claims 1-11 to patentably distinguish over the Polo device, if it turned out to be prior art.

Subsequently, Applicants determined that there was no indication that the Polo prior art had ever been sold or used in the United States, and Applicants were not aware of any printed publication showing the Polo prior art. At that point, Applicants submitted new claims 12-17 and submitted an Information Disclosure Statement which was not intended to list the photographs, which were apparently inadvertently attached to the Information Disclosure Statement. These photographs were taken by Applicants and are not themselves prior art. At the time of that submission and at the present time, it is Applicants' understanding that the Polo dispenser itself is not prior art.

Applicants appreciate that the Examiner did then bring to Applicants' attention the Packaging Magazine article which was published on June 18, 1998, and therefore does constitute prior art. To further clarify this prior art, Applicants have obtained and are attaching hereto a true color photograph as it appeared in that publication.

The specification has been amended to reflect the actual prior art, i.e., the Packaging Magazine article.

TITLE

Applicants respectfully traverse the requirement for a new title. The current title includes three technical words which describe the invention, "circular", "dispensing" and "container". If the Examiner is requiring such greater specificity as to include claimed features, then it is respectfully submitted that there is no such requirement and specifically, § 606.01 of the MPEP does not require such specificity.

PRIOR ART REJECTION

The most relevant prior art, the Packaging Magazine article shows a toroid on the left in a closed condition and a partial photograph on the right showing the same toroid with a portion raised to reveal an opening. The only written description relevant to the structure is that "pressure applied to the Polo pack opens a small lid, allowing the mints to be tipped out." This reference shows no further details of the part which opens or how or where it is connected to the remainder of the container.

Original independent claims 1 and 6 clearly include numerous features which are neither shown nor remotely suggested by this prior art and are therefore these claims are patentable thereover, along with their dependent claims 1-5 and 7-11.

Also, new independent claim 18 has been drafted so as to recite details of the tab and its connection to the remainder of the container which are neither shown nor remotely suggested by the Packaging Magazine prior art.

There are no other prior art references which are sufficiently close to the Packaging Magazine prior art to be combinable therewith to render any of the claims in this application unpatentable under § 103.

In view of the above, it is respectfully submitted that this application is now in condition for allowance, which action is promptly and respectfully solicited.

Respectfully submitted,

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June 27, 2003